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FIRST GENERAL COUNSEL'S REPORT

MUR: 6830
DATE COMPLAINT FILED: May 22, 2014
DATE OF NOTIFICATION: May 28, 2014
LAST RESPONSE RECEIVED: July 29, 2014
DATE OF ACTIVATION: October 14, 2014

ELECTION CYCLE: 2014
EXPIRATION OF SOL: Earliest: March 24, 2019
Latest: November 7, 2019

COMPLAINANT:

Randy Pace

RESPONDENTS:

Burlington County Republican Committee and
Charles Lambiase in his official capacity as
treasurer

Tom MacArthur for Congress, Inc. and Ron
Gravino in his official capacity as treasurer

Megan Riffle

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30101(4)¹
52 U.S.C. § 30101(8)(A)(i)
52 U.S.C. § 30103(a)
52 U.S.C. § 30104(a)
52 U.S.C. § 30116(a)(1)(C)
52 U.S.C. § 30116(f)
52 U.S.C. § 30125(b), (e)
11 C.F.R. § 100.52
11 C.F.R. § 106.1(c)
11 C.F.R. § 110.2
11 C.F.R. § 110.3
11 C.F.R. § 300.30(b)(1)
11 C.F.R. § 300.61

INTERNAL REPORTS CHECKED:

Disclosure Reports

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended, (the "Act") was transferred from Title 2 to new Title 52 of the United States Code.

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

The Complaint alleges that Tom MacArthur for Congress, Inc. and Ron Gravino in his official capacity as treasurer (the "MacArthur Committee"), received and failed to disclose in-kind contributions in the form of office space and related office services from the Burlington County Republican Committee and Charles Lambiase in his official capacity as treasurer (the "County Committee") during the primary election of 2014.² Moreover, the Complaint suggests that, in making these alleged contributions, the County Committee might have triggered federal political committee status, and thus may have violated the Act's registration and disclosure requirements and contribution limits.³ Finally, the Complaint alleges that the County Committee had no federal account from which expenditures could be made lawfully, suggesting that the alleged in-kind contribution to the MacArthur Committee violated the Act's source prohibitions.⁴ The MacArthur Committee, the County Committee, and Megan Riffle, the County Committee's Organizational and Political Director, submitted separate responses acknowledging a lease but explaining that the MacArthur Committee paid the appropriate rent.⁵

Based on the available information showing that any potential contributions were likely modest, we recommend that the Commission exercise its prosecutorial discretion and dismiss allegations that the MacArthur Committee violated 52 U.S.C. §§ 30104(b), 30116(f), and

² Compl. at 1-2 (May 22, 2014).

³ *Id.* at 2-3.

⁴ *Id.*

⁵ MacArthur Committee Resp. (July 17, 2014); County Committee Resp. (July 17, 2014); Riffle Resp. (July 28, 2014). The MacArthur Committee response indicates that rent was paid "out of an abundance of caution" but that it believed its limited use of the facilities did not present a "cognizable benefit." MacArthur Committee Resp. at 2-3.

1 30125(b) (formerly 2 U.S.C. §§ 434(b), 441a(f) and 441i(e)) by accepting and failing to report
2 excessive and prohibited in-kind contributions from the County Committee.⁶ For similar
3 reasons, we further recommend that the Commission dismiss allegations that the County
4 Committee violated 52 U.S.C. §§ 30103(a), 30104(a), 30116(a)(1)(C), and 30125(b) (formerly
5 2 U.S.C. §§ 433(a), 434(a), 441a(a)(1)(C), and 441i(b)) by failing to register and report as a
6 political committee with the Commission, or by making excessive or prohibited in-kind
7 contributions to the MacArthur Committee. Finally, we recommend that the Commission find
8 no reason to believe that Megan Riffle violated any provision of the Act or the Commission's
9 regulations.

10 **II. FACTUAL AND LEGAL ANALYSIS**

11 **A. The Commission Should Dismiss the Allegations of Excessive and Prohibited**
12 **Contributions and Reporting Violations Because any such Violations were**
13 **Likely Modest**
14

15 The Complaint alleges that during the 2014 Republican primary election for New
16 Jersey's Third Congressional District, the MacArthur Committee used the County Committee's
17 office as its campaign headquarters, including its telephones, office equipment, staff, and other
18 support services, but failed to disclose those in-kind contributions in its reports.⁷ The Complaint
19 requests that the Commission investigate to determine whether the Respondents violated the
20 Act's disclosure requirements, contribution limits and source prohibitions.⁸

21 In support of the allegations, the Complaint includes an affidavit from Nicholas Hladick,
22 who attests that on April 24, 2014, he went to the County Committee's headquarters and asked

⁶ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

⁷ Compl. at 1-2.

⁸ *Id.* at 2.

1 about volunteering for the MacArthur campaign because he had "heard that the MacArthur
2 campaign was being run out of the Burlington GOP's office."⁹ He further asserts that
3 Respondent Megan Riffle and a person named "Mike" told him that volunteers for the
4 MacArthur campaign worked from the County Committee's offices and that as a volunteer at this
5 location, he would make telephone calls, prepare mailers, attend events, participate in "meet-and-
6 greets" and fundraising, and coordinate community events.¹⁰ Hladick states that he then left the
7 County Committee's offices without doing any volunteer work for MacArthur.¹¹

8 Respondents deny that the County Committee made any in-kind contributions to the
9 MacArthur Committee by providing the office space, equipment, telephone service, and staff
10 described in the Complaint.¹² The County Committee explains that it has rented the same
11 privately-owned building for decades, it agreed in April 2014 to sub-lease extra space in the
12 building to the MacArthur Committee, and the sub-lease included utilities and associated
13 expenses.¹³ The MacArthur Committee contends that the space sub-leased from the County
14 Committee was not its campaign headquarters, but a satellite space at which it "maintained only

⁹ Affidavit of Nicholas Hladick ¶ 1 (May 6, 2014) ("Hladick Aff.") (attached as Exhibit 1 to the Complaint).

¹⁰ *Id.* at ¶¶ 2, 4-6. Hladick erroneously refers to Megan Riffle as "Megan Ripple." *Id.* ¶ 2.

¹¹ *Id.* at ¶ 7.

¹² MacArthur Committee Resp. at 1-3; County Committee Resp. at 2-3.

¹³ County Committee Resp. at 2.

1 a limited presence.”¹⁴ It provided an affidavit from its Burlington County Regional Director,
2 Harrison Neely, who attests that he began working for the MacArthur campaign on March 24,
3 2014, and he was the only campaign staff member working at the County Committee location
4 until mid-April 2014.¹⁵ He states that the MacArthur campaign’s headquarters was located in
5 Bayville, N.J., not in the County Committee’s office in Mount Holly, N.J. He further avers that
6 MacArthur Committee staff working at the County Committee’s offices used personal laptops,
7 and telephones, equipment, and supplies provided by the MacArthur Committee for campaign
8 related work, and the campaign paid its staff and service providers with its own funds.¹⁶ The
9 MacArthur Committee and the County Committee each attached a copy of the MacArthur
10 Committee’s June 20, 2014, check for \$9,952 to the County Committee, which includes the
11 memo entry “rent & services utilities.” Respondents assert this payment was for rent and
12 associated expenses related to the use of the space in the County Committee’s building during
13 the primary election.¹⁷ The County Committee said that it received this payment “shortly after
14 the primary election ... [after it] requested payment from” the MacArthur Committee.¹⁸ The
15 MacArthur Committee further asserts that it paid Fitzsimmons Communication for telephone

¹⁴ MacArthur Committee Resp. at 2. The MacArthur Committee’s official address filed with the Commission is P.O. Box 225, Colonia, N.J. 07067. The MacArthur Committee attests that the address of its official campaign headquarters is 340 U.S. Route 9, Bayville, N.J. 08721. See Affidavit of Harrison Neely ¶ 5 (July 16, 2014) (“Neely Aff.”) (attached as Exhibit 1 to the MacArthur Committee Response). The County Committee’s official address is 223 High Street, Mount Holly, N.J. 08060. See <http://burlicogop.org/contact/>. Neither respondent submitted a copy of a sub-lease agreement, nor do we know if the purported rental agreement was written or verbal.

¹⁵ Affidavit of Harrison Neely ¶ 2-4, 7 (July 16, 2014) (“Neely Aff.”) (attached as Exhibit 1 to the MacArthur Committee Response).

¹⁶ *Id.* at ¶¶ 5-6, 8-10.

¹⁷ MacArthur Committee Resp. at 3, Exh. B; County Committee Resp. at 3, Exh. A. This check post-dates the May 22, 2014, complaint by about a month.

¹⁸ County Committee Resp. at 2. The County Committee does not say how it requested payment, and it did not attach a written request or invoice with its response.

1 services related to phone banks it operated out of the County Committee's offices, and it
2 disclosed all of these expenditures and disbursements in its reports to the Commission.¹⁹

3 The MacArthur Committee asserts that it paid the County Committee "out of an
4 abundance of caution," and explains that it was not required to pay for any use of the County
5 Committee's facilities under the Act because the County Committee maintained them for its own
6 organizational purposes, which predated those of the MacArthur campaign, and not on behalf of
7 any clearly identified candidate or in a manner that could be directly attributed to MacArthur.²⁰

8 It reasons that its mere presence in the County Committee's building did not result in a
9 contribution because it did not present a "cognizable benefit" to the MacArthur Committee.²¹

10 The MacArthur Committee alternatively argues that it paid the County Committee within a
11 commercially reasonable time, so no contribution occurred.²²

12 The Act defines a "contribution" as "any gift, subscription, loan, advance, or deposit of
13 money or anything of value made by any person for the purpose of influencing any election for
14 Federal Office."²³ "Anything of value" includes all in-kind contributions, which are "any goods
15 or services [provided] without charge or at a charge that is less than the usual and normal charge

¹⁹ *Id.* at 3, Exh. A; *see also* 2014 MacArthur Committee Pre-Primary Report (May 22, 2014).

²⁰ MacArthur Committee Resp. at 2 (citing 11 C.F.R. § 106.1(c)).

²¹ *Id.* at 2. The response also cites to MUR 5564 (Knowles for Senate) and MUR 6049 (Kosmas for Congress), which interpreted 11 C.F.R. § 106.1(c), but these cases are clearly distinguishable on the facts. *See* note 34.

²² *Id.* (citing 11 C.F.R. § 116.3).

²³ *Id.* § 30101(8)(A)(i) (formerly 2 U.S.C. § 431(8)(A)(i)).

1 for such goods or services....²⁴ The Act provides that in supporting a candidate for federal
2 office, a district or local party committee is restricted to a \$5,000 per election contribution limit,
3 which it must share with the state party committee, assuming that the state party committee is a
4 qualified multi-candidate committee.²⁵ No candidate or political committee may knowingly
5 accept a contribution in excess of the limits set forth in 52 U.S.C. § 30116 (formerly 2 U.S.C.
6 § 441a).²⁶ Federal candidates and their committees are prohibited from receiving funds in
7 connection with a federal election unless they comply with the Act's contribution limits and
8 source prohibitions, and expenditures by local party committees for federal election activity must

²⁴ 11 C.F.R. § 100.52(d)(1). "Usual and normal" charge for "goods" means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution; and "usual and normal" charge for any "services," other than those provided by an unpaid volunteer, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered. 11 C.F.R. § 100.52(d)(2). *See* Conciliation Agreement at 3-4, MUR 6040 (Rangel) (reduced rental rates are similar to any other goods or services that may result in the receipt of an in-kind contribution by a political committee if the discounted rental rates are not made available in the ordinary course of business and on the same terms and conditions to the lessor's other tenants who are not political committees).

²⁵ 52 U.S.C. § 30116(a)(2)(C) (formerly 2 U.S.C. § 441a(a)(2)(C)); 11 C.F.R. §§ 110.2(b), 110.3(b)(3). The New Jersey Republican State Committee lists the County Committee on its website as one of its related county committees. *See* <http://www.njgop.org/counties/> (last visited, January 9, 2015). The New Jersey State Republican Committee is registered with the Commission as a qualified multi-candidate committee and meets the requirements for both a multi-candidate committee and a party committee set forth in 11 C.F.R. §§ 100.5(e)(3)-(4). A local party committee may operate under its own separate contribution limits if the committee's independence from the state party can be demonstrated. Thus, an independent local party committee that has multi-candidate committee status may contribute up to \$5,000 to a federal candidate, while an independent local party committee that is a non-multi-candidate committee may contribute up to \$2,600 to a federal candidate. *See* Advisory Op. 1978-09 (Republican State Committee of Iowa) (July 21, 1978); Advisory Op. 1999-04 (Republican Party of Minnesota) (Apr. 22, 1999); Advisory Op. 2005-02 (Corzine) (Apr. 22, 2005). Here, the County Committee does not operate independently of the New Jersey State Republican Committee, and thus shares its \$5,000 contribution limit. 11 C.F.R. § 110.2.

²⁶ *Id.* § 30116(f) (formerly 2 U.S.C. § 441a(f)).

1 be made from funds subject to those limits and prohibitions.²⁷ The Act requires a candidate's
2 authorized committee to disclose to the Commission all receipts, expenditures, and
3 disbursements.²⁸

4 The available information is insufficient to make reasoned findings regarding many of the
5 claims in the complaint. It is unclear whether the MacArthur Committee paid a fair market rate
6 for the space and related services at the County Committee's offices, and it is unclear whether it
7 paid timely. The MacArthur Committee reported that it paid the County Committee \$9,952 for
8 "rent, services and utilities" on June 20, 2014; \$16,452 on September 30, 2014; and \$4,689 on
9 November 7, 2014. Thus, the MacArthur Committee paid the County Committee \$31,093 for
10 rent and utilities over an approximately seven-month rental period (mid-April-early November),
11 which averages to about \$4,441 per month for office space. The record, however, does not
12 reveal how much space the MacArthur Committee rented, so it not possible to say whether the
13 amounts paid were fair. The MacArthur Committee attached a Google Maps link to a street view
14 of the County Commission's location, but the partially obscured picture of the building's façade
15 does not persuasively answer the footage question.²⁹ It is possible that the Committee did not
16 rent much space because Hladick's affidavit indicates that only four MacArthur Committee

²⁷ 52 U.S.C. § 30125(b)(1), (e) (formerly 2 U.S.C. § 441i(b), (e)). The Complaint also correctly argues that the alleged in-kind contribution cannot be considered a proper coordinated party expenditure because the activity occurred during the primary election, not the general. In a general election, a national, state, or local party committee may make coordinated party expenditures, wherein the party committee pays for goods or services in coordination with a candidate, but does not give the money directly to the candidate or candidate's committee. 52 U.S.C. § 30116(d) (formerly 2 U.S.C. § 441a(d)); 11 C.F.R. § 109.32.

The New Jersey Republican State Committee reported no coordinated party expenditures in 2014 general election.

²⁸ 52 U.S.C. § 30104(a)-(b) (formerly 2 U.S.C. § 434(a)-(b)).

²⁹ MacArthur Committee Resp. at 2, n 10.

1 staffers were using the County Committee's offices in April 2014.³⁰ If that deduction is true, the
2 amounts paid might be reasonable, but there is not enough information to make that
3 determination.³¹ And the complainant has supplied no information showing that the amounts
4 paid were less than the usual and normal charge.

5 The timing of the MacArthur Committee's first lease payment and the lack of
6 documentation other than the June 20 check also raise the possibility it used the County
7 Committee's offices and related services for three months without charge, resulting in a
8 contribution. At least one staff member occupied space in the County Committee's offices as
9 early as March 24, 2014. The Committees claim to have entered into a lease agreement
10 sometime in April 2014, so it seems clear that there was no lease in force when the MacArthur
11 Committee started using the County Committee's offices. Further, the MacArthur Committee
12 did not make a rental payment until June 20, 2014, almost three months after it started using the
13 space, a month after the complaint was filed, and two weeks after it reported to the Commission
14 that it had paid the rent.³² Nor do Respondents provide a written lease or invoice to support their
15 claim that they entered into a market-rate lease agreement in April.³³

³⁰ See Hladick Aff. ¶ 4 (Attesting that Riffle told him "Mike and three other guys are handling the MacArthur campaign out of the office here.") It is possible that more, or fewer campaign staffers worked in this office after April 24, 2014.

³¹ Publicly available information regarding commercial rental rates in Mount Holly, NJ reveals that office spaces can be rented on the same street on a monthly basis for \$1.25 per square foot. See <http://www.cityfeet.com/cont/ForLease/LN17764888/100-High-Street-Mount-Holly-NJ-08060>. There is no information available, however, regarding the square footage of the space that the MacArthur Committee used.

³² MacArthur Committee 2014 July Quarterly Report (July 14, 2014) at 61.

³³ As to Complainant's other claims regarding the space, the information favors Respondents' version of the facts. The MacArthur Committee made multiple payments for rent and related expenses for a different facility, which is consistent with its claim that its campaign headquarters were in Bayville, not Mount Holly. In addition, the sworn statement and accompanying receipts demonstrate that the MacArthur Committee used outside vendors for telecommunications, telephone, computer equipment, and related telephone and internet services, further casting doubt on the allegations that the campaign was based out of the County Committee's offices and the County Committee subsidized it with supplies and services.

1 We do not, however, believe that pursuing this allegation would be a prudent use of
2 Commission resources. First, the MacArthur Committee eventually paid what appears to be a
3 relatively substantial sum to use the space.³⁴ Second, the record suggests that the MacArthur
4 Committee's satellite office was a fairly small operation at the relevant times – one employee at
5 first, and four staffers later.³⁵ There is also evidence that the satellite office did not use County
6 Committee phones or computers, but used or paid for its own.³⁶ Thus, any additional benefit that
7 the MacArthur Committee would have derived from the use of the space was likely modest.³⁷

³⁴ The Respondents assert that the MacArthur Committee was not required to pay for these services at all under 11 C.F.R. §106.1(c) because they were overhead expenditures not made on behalf of any clearly identified federal candidate and they cite to MURs 6049 (Kosmas for Congress) and 5564 (Knowles for Senate) to support their position. Although the Commission need not reach this issue due to our recommendation to dismiss the allegation, we conclude that the Respondents do not appear to qualify for this exemption because the County Committee provided dedicated space to a clearly identified federal candidate, MacArthur. Moreover, MUR 6049 is clearly distinguishable because the information was persuasive that the Kosmas Committee did not use the Florida Democratic Party's offices as a campaign office, and the FDP's overhead and administrative expenses were neither made on Kosmas's behalf nor attributable to her. Here, the MacArthur Committee admits it used the County Commission's offices as a campaign office and paid rent. MacArthur Committee Resp. at 2-3. Similarly, Respondents' reliance on MUR 5564 is misplaced because this matter involves a specific candidate's use of a County Committee's offices as a satellite campaign office, while MUR 5564 involved expenditures made by the state party committee for costs related to opening field offices dedicated to Senate candidate Knowles's campaign, hiring interns, and other activities to support its platform and candidates in the general election, which were not limited to, but included, Knowles.

³⁵ Neely Aff. ¶ 4; Hladick Aff. ¶ 4.

³⁶ Neely Aff. ¶¶ 8-9.

³⁷ The fact the request and subsequent payment occurred after the complaint was filed may raise questions that the lease agreement was not an arm's length transaction, but a *post hoc* remedy, but in a recent case, the Commission did not consider a post-complaint reimbursement to be a dispositive factor. *See* Factual and Legal Analysis at 8-9 ("F&LA"), MUR 6542 (Mullin for Congress) (dismissing allegation of potential in-kind contribution even though the reimbursement was made after the complaint was filed).

1 Finally, the recommendation to dismiss is in harmony with recent cases involving free or
2 reduced-rate rent provided to committees.³⁸

3 Accordingly, we recommend that the Commission exercise its prosecutorial discretion
4 and dismiss the allegations that the County Committee made, or that the MacArthur Committee
5 accepted, an excessive or prohibited contribution, in violation of 52 U.S.C. §§ 30116(a)(1)(C),
6 30116(f), or 30125(b), (e) (formerly 2 U.S.C. §§ 441a(a)(1)(C), 441a(f), 441i(b), (e)).³⁹
7 Similarly, we recommend that the Commission dismiss the allegations that the MacArthur
8 Committee failed to report the receipt of in-kind contributions from the County Committee in
9 violation of 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)). Because it is undisputed that the
10 County Committee let one MacArthur Committee employee use its space before the two
11 committees entered into a sub-lease, we recommend that the Commission caution both of these
12 respondents. Finally, the record presents no basis to find Megan Riffle personally liable for any
13 violation, so we recommend the Commission find no reason to believe that she violated the Act
14 or the Commission's regulations.

³⁸ In MUR 6463 (*Antaramian*), the Commission found that a sublessor made a prohibited in-kind contribution of office space to the Democratic National Committee. The amount in violation exceeded \$30,000, no payments were made on the lease or sublease for nine months, the amount in violation was reimbursed only after a lawsuit was filed, and the sublease itself was not permitted under the original lease's contract terms. In contrast, the Commission found no reason to believe in MUR 6576 (*McLeod*), in which the respondent committee made a persuasive showing that the low rent charged to a candidate's committee was justified because, among other things, the building was in poor condition and the committee paid for substantial renovations. Further, the *McLeod* committee presented an expert's affidavit opining that the rent was reasonable under the circumstances. Thus, the instant violations appear to be less significant than those in *Antaramian*, because the amount in violation is likely smaller, the period of nonpayment is shorter, and the sublease itself appears to have been permissible. On the other hand, the showing the respondents make here is much weaker than the persuasive evidence in *McLeod*. See also Conciliation Agreement, MUR 6040 (*Rangel*).

³⁹ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

B. The Commission Should Dismiss the Allegation that the County Committee Failed to Register and Report as a Political Committee

The Complaint also alleges that the value of the County Committee's alleged in-kind contributions to the MacArthur Committee likely exceeded \$1,000, which qualifies the County Committee as a "political committee" as defined by 52 U.S.C § 30101(4) (formerly 2 U.S.C. § 431(4)) of the Act, and that the County Committee therefore failed to meet the registration and reporting requirements for political committees.⁴⁰ These allegations are based on the same facts as the claim that the County Committee made an in-kind contribution to the MacArthur Committee by providing it office space, telephones, staff, and other equipment.⁴¹

The County Committee asserts that it does not qualify as a political committee because it raises and spends only non-federal funds and does not conduct any independent expenditure activities related to federal elections.⁴² The County Committee explains that it did not make any in-kind contribution to the MacArthur Committee, thus, it was not required to register and report as a political committee.

A local committee of a political party is defined as an organization that by virtue of the by-laws of a political party or the operation of state law is part of the official party structure, and is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a state.⁴³ The County Committee appears to be a local committee of a political party because it is responsible for carrying out the functions of the Republican Party in Burlington County, in accordance with

⁴⁰ Compl. at 2.

⁴¹ Compl. at 2.

⁴² County Committee Resp. at 2.

⁴³ 11 C.F.R. § 100.14(b).

1 New Jersey State election laws.⁴⁴ Pursuant to 52 U.S.C. § 30101(4)(C), a local committee of a
2 political party is a "political committee" under the Act if it: (1) receives contributions
3 aggregating in excess of \$5,000 during a calendar year; (2) makes payments exempted from the
4 definition of contribution or expenditure aggregating in excess of \$5,000 during a calendar year;
5 (3) makes contributions aggregating in excess of \$1,000 during a calendar year for the purpose of
6 influencing a federal election; or (4) makes expenditures aggregating in excess of \$1,000 during
7 a calendar year for the purpose of influencing a federal election.⁴⁵

8 Based on a review of the County Committee's state disclosures and the Commission's
9 records, outside of the activities alleged in the Complaint, it does not appear to have received
10 contributions in excess of \$5,000 for the purpose of influencing a federal election; nor did it
11 make payments for exempt activities in excess of \$5,000 or contributions to federal candidates in
12 excess of \$1,000, during the calendar year 2014.⁴⁶ It made one \$121 in-kind contribution to the
13 MacArthur Committee in 2014 for direct mail services.⁴⁷ Thus, the only basis for finding that
14 the County Committee is a political committee subject to the registration and reporting

⁴⁴ Constitution and By-Laws for the Burlington County Republican Committee Art. II,
<http://www.co.burlington.nj.us/DocumentCenter/View/2717>; 2013 New Jersey Revised Statutes, Section 19:1.
See Factual and Legal Analysis at 6-7, MUR 6683 (Fort Bend Democrat Party).

⁴⁵ 52 U.S.C. § 30101(4)(C) (formerly 2 U.S.C. § 431(4)(C)). Unlike political committees defined under 52 U.S.C. § 30101(4)(A), the Commission has generally not applied the major purpose test identified by *Buckley v. Valeo*, 424 U.S. 1, 79 (1976), to local party committees subject to 52 U.S.C. § 30101(4)(C). *See, e.g.*, Advisory Op. 1980-28 (the Republican Committee of Chester County) (concluding that a local party committee would qualify as a political committee once it made expenditures over \$1,000); Advisory Op. 1980-110 (Greenburgh Democratic Campaign Committee) (same); Advisory Op. 1999-4 (Republican Party of Minnesota) (same); *see also*, Factual & Legal Analysis at 5-6, MURs 6036/6043 (Yolo County Democratic Central Committee/Davis Democratic Club) (July 6, 2009) (local party committees failed to register with the Commission and were analyzed as political committees under 2 U.S.C. § 431(4)(C) without major purpose test). Accordingly, the County Committee's status as a local party committee is based on the monetary statutory thresholds alone. *See* 52 U.S.C. § 30101(4)(C).

⁴⁶ 52 U.S.C. § 30101(4)(C),(8)(A),(B), (9)(B).

⁴⁷ MacArthur Committee 2014 October Quarterly Report (Oct. 20, 2014) at 98.

requirements of the Act would be a determination that it made another 2014 in-kind contribution to the MacArthur Committee greater than \$879.

As previously discussed, we lack sufficient information to determine whether the County Committee made an in-kind contribution to the MacArthur Committee that would push it over the \$1,000 threshold during, and we believe that an investigation would not be a prudent use of Commission resources. Thus, we recommend the Commission exercise its prosecutorial discretion and dismiss the allegation that the Burlington County Republican Committee and Charles Lambiase in his official capacity as treasurer violated the Act's registration and reporting requirements set forth in 52 U.S.C. §§ 30103(a) and 30104(a) (formerly 2 U.S.C. §§ 433(a) and 434(a)).⁴⁸

III. RECOMMENDATIONS:


- (1) Dismiss the allegation that Tom MacArthur for Congress, Inc. and Ron Gravino in his official capacity as treasurer violated 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)) by failing to report in-kind contributions from Burlington County Republican Committee;
- (2) Dismiss the allegation that Tom MacArthur for Congress, Inc. and Ron Gravino in his official capacity as treasurer violated 52 U.S.C. §§ 30116(f) and 30125(e) (formerly 2 U.S.C. §§ 441a(f) and 441i(e)) by receiving excessive or prohibited in-kind contributions from Burlington County Republican Committee;
- (3) Dismiss the allegation that Burlington County Republican Committee and Charles Lambiase in his official capacity as treasurer violated 52 U.S.C. § 30116(a)(1)(C) and 30125(b) (formerly 2 U.S.C. §§ 441a(a)(1)(C) and 441i(b)) by making an excessive or prohibited in-kind contribution;
- (4) Dismiss the allegation that Burlington County Republican Committee and Charles Lambiase in his official capacity as treasurer violated 52 U.S.C. §§ 30103(a) and 30104(a) (formerly 2 U.S.C. §§ 433(a) and 434(a)) by failing to register and report as a political committee;

⁴⁸ See MUR 6683 (Fort Bend County Democratic Party) (Dismissing allegation that local party committee was a political committee because its expenditures barely crossed the \$1,000 threshold).

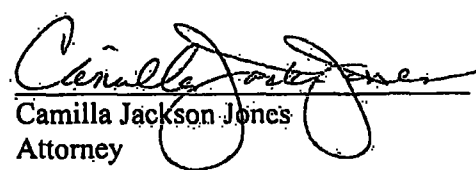
- (5) Find no reason to believe that Megan Riffe violated any provision of the Act or the Commission's regulations;
- (6) Approve the attached Factual and Legal Analyses;
- (7) Approve the appropriate letters, including appropriate cautionary letters; and
- (8) Close the file.

Date

2/11/15


Stephen A. Gura
Deputy Associate General Counsel
For Enforcement


Peter G. Blumberg
Assistant General Counsel


Camilla Jackson Jones
Attorney